

and those assets and liabilities which are not related to the provision of patient care. Providers that are members of chain operations must also include in their working capital a share of the equity capital of the home office.

The average of the net working capital computed for the beginning and ending of the reporting period will be used for purposes of determining the net working capital eligible for a return on investment. The following are examples of items not included in the computation for net working capital:

- a. Property, plant, and equipment, excluding vehicles;
- b. Debt related to property, plant, and equipment, excluding vehicles;
- c. Liabilities related to property, plant, and equipment, excluding vehicles, such as accrued property taxes, accrued interest, and accrued property insurance;
- d. Notes and loans receivable from owners or related organizations;
- e. Goodwill;
- f. Unpaid capital surplus;
- g. Treasury Stock;
- h. Unrealized capital appreciation surplus;

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- i. Cash surrender value of life insurance policies;
- j. Prepaid premiums on life insurance policies;
- k. Assets acquired in anticipation of expansion and not used in the provider's operations or in the maintenance of patient care activities during the rate period;
- l. Inter-company accounts;
- m. Funded depreciation;
- n. Cash investments that are long term (six months or longer);
- o. Deferred tax liability attributed to non-allowable tax expense;
- p. Any other assets not directly related to or necessary for the provision of patient care;
- q. Net capitalized loan/financing costs;
- r. Resident fund accounts held on behalf of the resident which were included on the facility's balance sheet;
- s. Workmen's Compensation self insurance fund.

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D. Total Rate

The annual rate is the sum of the per diem rate for direct care costs, therapies, care related costs and administrative and operating costs, the per diem property payment, the per diem hold harmless payment, and the per diem return on equity payment.

E. Adjustments to the Rate for Changes in Law or Regulation

Adjustments will be made to the rate as necessary to comply with changes in state or federal law or regulation.

F. Calculation of the Rate For One Provider

In years when the rate is calculated for only one facility, reimbursement will be based upon allowable reported costs of the facility. Reimbursement for direct care, therapies, care related, and administrative and operating costs will be made at cost plus the applicable trend factor. The property payment and the return on equity payment will be calculated for the facility as described in Sections 5-2 B. and C. The one provider will be subject to the hold harmless provisions of Chapter 6.

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CHAPTER 6

HOLD HARMLESS FOR CAPITAL COSTS

6-1 Computation of Hold Harmless for Capital Costs

A computation will be made to determine if a facility is eligible for the hold harmless provision for capital costs in the initial rate period of this plan (FY 1994). For each rate period after FY 1994, the facility must have been eligible for the hold harmless provision in the prior rate period for this provision to apply in the current rate period. The computations will be made as follows:

1. Compute the facility's fair rental per diem payment related to property, plant, and equipment; as described in Section 3-4, E,5. This computation will exclude the pass through costs of property taxes and property insurance.
2. Compute the amount of allowable capital costs per day, excluding the pass through costs of property taxes and property insurance. Allowable capital costs include amortization expense-capital; interest expense-capital; and depreciation and rent on buildings, furniture, and equipment from the cost report.

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3. When the amount computed in 2, above, exceeds the amount computed in 1, above, a facility will be considered for the hold harmless provision.
4. Determine if the facility's total allowable costs per day exceed or fall below the maximum rate for their classification as computed under the Medicaid State Plan in effect on June 30, 1993, hereafter referred to as the "old plan", except excluding the use of the trend factor.
5. Facilities with total allowable costs per day below the maximum rate for their classification, as computed in #4 above, will receive a hold harmless amount equal to the amount by which allowable capital costs per day (#2.) exceed the fair rental per diem payment related to property, plant, and equipment (#1.).
6. Facilities whose total allowable costs per day exceed the maximum rate for their classification, as computed in #4 above, will be subject to imposed limitations. These facilities will be subject to a hold harmless payment limit of up to \$2.00 per patient day. Furthermore, allowable capital costs per day (as computed in #2 above) will be reduced by the pro-rata share of allowable capital per diem costs to total allowable per diem costs for purposes of comparing costs to the fair rental per

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diem payment related to property, plant, and equipment.

For example:

This example is based on information reported on the facility's calendar year 1992 cost report and computes the hold harmless provision for the facility for the rate period beginning July 1, 1993 and ending June 30, 1994 (FY 1994).

ABC Nursing Facility's computed fair rental per diem payment related to property, plant, and equipment is \$7.50. The amount of allowable capital costs per day excluding the pass through costs of property taxes and property insurance is \$10.25. The allowable capital costs of \$10.25 exceed the computed fair rental per diem payment of \$7.50; therefore, the facility is eligible for the hold harmless provision. The maximum rate for their classification as computed under the old plan, excluding the use of the trend factor for FY 1994 is \$59.50.

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1st Scenario:

ABC Nursing Facility's total allowable costs per day are \$54.50. Thus, ABC Nursing Facility's allowable costs per day fall below the maximum rate for their classification by \$5.00. The facility will be eligible to receive a hold harmless per diem amount equal to the difference between the allowable capital costs of \$10.25 and the computed per diem rental payment of \$7.50 or \$2.75 per day in FY 1994. Therefore, ABC Nursing Facility will receive \$2.75 per day for the hold harmless provision under this scenario.

2nd Scenario:

ABC Nursing Facility's total allowable costs per day are \$63.50. Thus, ABC Nursing Facility's allowable costs per day exceed the maximum rate for their classification by \$4.00. The facility will be subject to the hold harmless provision limitations as follows:

The allowable capital costs per day of \$10.25 must be reduced by the pro-rata share of the amount which exceeds the maximum rate. The pro-rata share is determined by

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dividing capital costs of \$10.25 by total costs of \$63.50. The pro-rata share of the excess costs over the maximum rate for ABC Nursing Facility is 16.14% of the excess of \$4.00 or \$0.65. Subtracting \$0.65 from \$10.25 results in the difference of \$9.60 which is the allowable capital costs to be compared to the fair rental per diem payment related to property, plant, and equipment of \$7.50. ABC Nursing Facility is eligible for hold harmless in the amount of \$2.10 per day. The eligible amount is limited to the maximum of \$2.00. Therefore, ABC Nursing Facility will receive \$2.00 per day for the hold harmless provision under this scenario.

The ABC Nursing Facility, in subsequent rate periods, will apply the hold harmless dollar amount computed for FY 1994, unless the difference between actual costs and the fair rental per diem payment is less than the amount computed for FY 1994. The hold harmless provision in future years will be the lesser of the difference between actual costs and the fair rental per diem payment or the amount computed for FY 1994.

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6-2 Documentation Required for Hold Harmless Eligibility

In order to be eligible for the hold harmless provision, a facility must submit with each cost report documentation that describes why the facility is unable to lower their property costs. This may include a copy of the facility's mortgage that disallows early payments, bonds that can not be refinanced, leases, etc. Failure to submit documentation will disqualify a facility from eligibility for the hold harmless provision.

6-3 Disqualification From Hold Harmless Provision

The list of occurrences by the provider listed below will also disqualify a facility from being eligible for the hold harmless provision for capital costs.

- A. A change of ownership that occurs on or after July 1, 1993. Transactions that were binding prior to passage of enabling legislation for this plan that were not closed until after July 1, 1993 will not result in disqualification from eligibility for the hold harmless provision for capital costs.
- B. Refinancing the mortgage(s) on the facility, except for refinancing 100% of the balloon principal payment due.

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- C. Negotiation of a new lease on or after passage of enabling legislation for this plan.
- D. The per diem rental payment exceeds the actual per diem capital costs.

Once a facility does not qualify for the hold harmless provision for capital, it has lost all future eligibility for the provision.

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